IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

FAO.No. 148 of 2007()

AGAINST THE ORDER DATED 09/02/2007 IN IA 52/07 IN LAR.203/1995 of PRINCIPAL SUB COURT,PARAVUR

.....

: APPELLANT/CLAIMANT

VILASINI AMMA, W/O.BHASKARA PANICKER,
NEDUVELIL, PUTHENCRUZ VILLAGE,
KUNNATHUNAD TALUK.

BY ADV. SRI.C.CHANDRASEKHARAN
SRI.P.VISWANADHA MENON

RESPONDENTS: RESPONDENTS

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1. STATE OF KERALA.

2. M/S.COCHIN OIL REFINERIES,
AMBALAMUGAL, KOCHI.

BY GOVERNMENT PLEADER SRI.K.V.MANOJ

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & T.R. RAMACHANDRAN NAIR, JJ.

F.A.O. No. 148 OF 2007

Dated this the 11th day of July, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal filed against the order dated 09.02.2007 in I.A. No. 52/2007 in L.A.R. No. 203/1995 on the file of Principal Sub Court, North Paravur. It was a petition for condonation of delay of over seven years.

2. It is seen that there is no judgment on merits by the Reference Court. The reference was only closed. It is now settled law that once the matter is referred, the Reference Court cannot close the application. The Court is bound to consider the matter and render a judgment on merits.

3. Learned Government Pleader submits that the appellant-claimant has made contradictory submissions before the Reference Court. According to the appellant, the statements happened to be made because of the instruction given to her and she has proceeded against the counsel before the Kerala Bar Council.

4. After having extensively heard the counsel on both sides, we are of the view that it is only in the interest of justice, particularly in view of the affidavit filed by the appellant that she is prepared to forgo

the interest for the period of seven years and nine months, that the appellant is given opportunity to have the reference considered on merits.

Accordingly, we set aside the order dated 09.02.2007 in I.A. No. 52/2007 in L.A.R. No. 203/1995. For removing any difficulties in the matter, I.A. 52/2007 in L.A.R. No. 203/1995 on the file of Principal Sub Court, North Paravur is allowed. The judgment and decree in L.A.R. No. 203/1995 is set aside. There will be a direction to the Reference Court to pass a judgment on merits in L.A.R. No. 203/1995. It will be open to the parties to adduce evidence. It is made clear that in the event of the Reference Court granting any enhancement, it shall be made clear in the judgment and decree that the claimant will not be entitled for any interest for the period of seven years and nine months. The reference shall be disposed of within a period of four months from the date of production of a copy of this judgment.

This appeal is disposed of as above.

KURIAN JOSEPH
JUDGE

T.R. RAMACHANDRAN NAIR
JUDGE

smp